

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

ANNUAL COMPLIANCE REVIEW, 2022

Docket No. ACR2022

**SUPPLEMENTAL RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
QUESTION 9.b OF CHAIRMAN'S INFORMATION REQUEST NO. 10**

In accordance with Order No. 6440 (February 10, 2023), the United States Postal Service hereby provides its first supplement response to the above-listed question of Chairman's Information Request No. 10, issued on February 3, 2023, and to which an initial response was filed on February 10, 2023. Each question is stated verbatim and followed by the response. As anticipated, it is difficult to expedite unilaterally the process of consulting with each counterparty.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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9. In response to Chairman's Information Request (CHIR) CHIR No. 5,¹ the Postal Service provided copies of specific interagency agreements that were in effect during Fiscal Year (FY) 2022, as well as a summary Excel file providing high-level information with respect to those agreements and information pertaining to costs and volumes associated with those agreements. This information was filed as part of Library Reference USPS-FY22-NP35, January 25, 2023.² In the application for nonpublic treatment with respect to Library Reference USPS-FY22-NP35, the Postal Service states that "[t]he IAA materials in question relate to specific IAA agreements and specific IAA counterparties, . . . [and] may be proprietary both to the Postal Service and the counterparties."³ The application for nonpublic treatment also incorporates by reference the prior application for nonpublic treatment with respect to Library Reference USPS-FY22-NP27. Notice at 1. The Postal Service states that "[o]ne . . . counterparty has already been identified in [the application for nonpublic treatment with respect to Library Reference USPS-FY22-NP27] [and] [f]or the other counterparties . . . the Postal Service identifies a postal employee as the point of contact for IAA materials in USPS-FY22-NP35." *Id.* at 1-2. The following subparts refer to the information provided in Library Reference USPS-FY22-NP35, folders "Q 5" and "Qs 6 & 7."

...

- b. If the Postal Service objects to filing any of the information provided in Library Reference USPS-FY22-NP35, folders "Q 5" and "Qs 6 & 7" publicly, please explain the basis for the objection and address each of the following subparts in the response.
- i. Any objection should identify the specific statutory basis for the objection, justify the application of the statute to the information at issue, and explain the nature and extent of the commercial harm alleged to result from disclosure and the likelihood of such harm occurring. See 39 C.F.R. §§ 3011.201(b)(1), (4).
 - ii. The Postal Service should also specify if the objection applies to all or a particular part of the referenced information. If the Postal Service objects to filing particular parts of the information provided in Library Reference USPS-FY22-NP35, folders "Q 5" and "Qs 6 &

¹ Responses of the United States Postal Service to Questions 1-7 of Chairman's Information Request No. 5, January 25, 2023, question 5-7 (Response to CHIR No. 5).

² See Library Reference USPS-FY22-NP35, folders "Q 5," "Qs 6 & 7."

³ Notice of the United States Postal Service of Filing of USPS-FY22-NP35 and Application for Nonpublic Treatment, January 25, 2023, at 1 (Notice).

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7" publicly (rather than all of that information), please file a redacted (public) version of the material that redacts only the information that is claimed to be non-public, consistent with 39 C.F.R. § 3011.202(a).

- iii. If the Postal Service's objection is based on the contention that any of the information provided in Library Reference USPS-FY22-NP35, folders "Q 5" and "Qs 6 & 7" contains "cost information at the product level, including disaggregated information for Competitive products," please specify which particular parts of the information to which this objection applies and explain that position fully.
- iv. If the Postal Service's objection is based on the contention that any of the information provided in Library Reference USPS-FY22-NP35, folders "Q 5" and "Qs 6 & 7" contains proprietary information of third parties, please specify which particular parts of the information to which this objection applies and explain that position fully.

RESPONSE:

b. The file, "FY'22 IAA – Dept of ED_Redacted.pdf" (electronically attached this response) is a redacted version of the interagency agreement between the U.S. Department of Education and the Postal Service under which the Postal Service provides Equal Employment Opportunity counseling, mediation, and other services to the Department of Education. (The unredacted version of the agreement was previously provided under seal on January 25, 2023, as part of USPS-FY22-NP35.) In accordance with the Commission's Order No. 6440 (February 10, 2023), the Postal Service is submitting this agreement as a representative example of the universe of EEO services agreements that were in effect in Fiscal Year 2022. Although not identical to every other EEO services agreement in every respect, it is representative of

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the structure and content of such agreements generally, exhibiting a high degree of homogeneity with those other EEO services agreements.

The information redacted from the agreement falls into three main categories: (1) nonpublic unit price information; (2) contract terms that were the subject of negotiations between the Postal Service and the Department of Education (and other agencies to whom the Postal Service provides these services); and (3) contact information for employees of the Postal Service or the agency to whom the services were provided. The specific statutory bases for withholding this information from the public are 39 U.S.C. Sections 410(c) and 3705(d). Redaction of this information is also appropriate under 39 C.F.R. Section 265.14(b)(3) and (f).

As explained in the Postal Service's original response to Chairman's Information Request No. 10, Question 8.b.i-iii (February 10, 2023), the Postal Service is not unique in its ability to provide the contracting services that it offers to federal agencies to assist them in handling Equal Employment Opportunity investigations. For this reason, the Postal Service is vulnerable to actual or potential competition, and the EEO services agreements, including the one that is provided in redacted form here, were the subject of negotiations with the other agencies for whom the services are provided. If the information the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers it quite likely that it would suffer commercial harm. For example, disclosing the negotiated terms and pricing would give the agencies with whom the Postal Service

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seeks to do business in the future inside information that could impact its negotiating position. It would also provide potential competitors with valuable information they could use to better design their own EEO consultative services and pricing, placing the Postal Service at a competitive disadvantage. In short, the redacted information is commercially sensitive information that would not be disclosed under good business practices.

Likewise, for similar reasons, this information is also proprietary to the Department of Education. If the Department were to seek other sources of EEO consultative services, those sources could potentially become aware of the terms of its agreement with the Postal Service, and use those terms as a baseline for negotiations to the detriment of the Department.